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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,098	05/03/2001	Hugo L. Schippmann	1556	5081

7590

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Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER

GONZALEZ, JULIO C

ART UNIT PAPER NUMBER

2834

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/806,098

**Applicant(s)**SCHIPPMANN, HUGO L. **Examiner**

Julio C. Gonzalez

**Art Unit**

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement filed May 04, 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claims disclose the use of a control system, however, such device is not found in the specifications. Also, in the remarks filed on 10/17/02, page 11, the management system was explained to include "an electronic controller comprising a control algorithm, sensors and actuators. The electronic controller preferably has

Application/Control Number: 09/806,098  
Art Unit: 2834

Page 3

a programmable microprocessor that is equipped with a suitable program for carrying out the control algorithm. The sensors comprise at least one rotor rpm sensor, providing a signal corresponding to the rotor rpm and a power sensor providing a signal that corresponds to the power produced by the generator." It was also mentioned that the word sensor covers embodiments in the form of an electronic circuit connected to the generator or the converter and deriving the corresponding signals from the alternating voltage and current values. Moreover, actuators comprise one or more motors for adjustment of the rotor blade angles and at least one electrical break actuator for breaking the rotor and the management system having a wind speed sensor and the system been shut off the by an electronic controller. Such explanations of devices are not found or supported by the specifications.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, what is meant by shutting off the system? The generator? The rotor?  
The power grid? From figure 3, which device is performing the shutting off?  
What composes the system? What is meant by regulating the rotor and the power  
output "downward" by adjustment of the rotor blade angle? Is the power been  
decreased? Is the speed of the rotor been decreased? Is the power output been  
regulated only at low power? What is the shutoff speed? Is it the maximum speed  
of the rotor? It is not clear as to what is the "shutoff speed".

In claim 3, how can the power be decreased and yet, the speed of the wind  
increases?

In claim 4, the claim mentions a control system and *a facility management system*.

What would be the parameters of the limit speed? What is the shutoff speed?

What determines the shutoff speed?

In order to advance prosecution in the merits, the Prior Art will be applied  
as best understood by the examiner.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for  
all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al in view of Kikuchi.

Lyons discloses a wind energy system having a wind rotor 120, rotor blades 122, and a generator 126 connected to the rotor (see figure 1). Also, part of the system may be shut off depending on the need (column 2, lines 61-67 - column 3, line 1).

However, Lyons does not disclose adjusting the angle of the blades.

On the other hand, Kikuchi discloses for the purpose of preventing the blades of a wind generator to break, a wind rotor (see figure 3), a generator 5 and blades that varied the angle depending on the wind velocity (see abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a wind energy system as disclosed by Lyons et al and to modify the invention by varying the angle of the blades for the purpose of preventing the blades of a wind generator to break as disclosed by Kikuchi.

8. Claims 2-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al and Kikuchi as applied to claims 1 and 9 above, and further in view of DiValentin et al.

The combined wind generator discloses all of the elements above. However the combined wind generator does not disclose implicitly regulating the power above and below a limit of wind speed.

On the other hand, DiValentin et al discloses for the purpose of increasing the efficiency of wind generators, a system in which the wind rotor is controlled above and below a wind speed limit (see claim 3 & abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the wind energy system as disclosed above and to modify the invention by controlling the wind rotor above/below wind speed limits for the purpose of increasing the efficiency of wind generators as disclosed by DiValentin et al.

9. Claims 5-8 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al and Kikuchi as applied to claims 1 and 9 above, and further in view of ordinary skill in the art.

The combined wind generator discloses all of the elements above. However the combined wind generator does not disclose the percentage rated power and wind speed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use such wind speed and rated power, since it has been held that discovering the optimum value of result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

### ***Response to Arguments***

10. Applicant's arguments filed 10/17/02 have been fully considered but they are not persuasive.

The cited documents in the office action disclose a wind energy system that includes a control system that regulates down to the rotor speed (see Lyons et al, column 1, lines 15-18 & column 2, lines 50-52, 55, 56, 63-65 & column 3, lines 12-14 and 20). Lyons et al disclose that it is known to shut down turbines of wind generators using a control system depending on wind speed (see abstract of Lyons et al). Moreover, Kikuchi teaches that the blades may be controlled depending on the wind speed (see abstract of Kikuchi). Moreover, Di Valentin et al show that a wind generator may be controlled by decreasingly down the power as the velocity is increased (see graph, figure 2 of DiValentin et al).

Also, the shutoff speed was not clearly defined in the claims or its parameters. It may seem like if the shutoff speed is when the turbine is shut down.



11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., control system regulating the power output already at wind speeds that have not yet reached the shut-off wind speed and the regulation resulting in lower dynamical loads of the rotor at wind speeds above the limit speed and the wind energy system been able to be dimensioned more compactly and can be produced more economically without the risk of overload at high wind speeds) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the

Application/Control Number: 09/806,098  
Art Unit: 2834

Page 9

advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
NESTOR RAMIREZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

Jcg

December 26, 2002